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DRAFT REPORT OF THE INTERGOVERNMENTAL GROUP OF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES ON ITS ELEVENTH SESSION

Held at the Palais des Nations, Geneva,
from 23 to 27 November 1992

Rapporteur: Mr. Donald Partridge (Canada)

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REVIEW OF THE OPERATION OF AND EXPERIENCE ARISING FROM THE APPLICATION AND IMPLEMENTATION OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES

(Agenda item 3)

ACTIVITIES RELATING TO SPECIFIC PROVISIONS OF THE SET:

(a) STUDIES ON RESTRICTIVE BUSINESS PRACTICES RELATED TO THE PROVISIONS OF THE SET OF PRINCIPLES AND RULES;

(b) INFORMATION AND CONSULTATIONS ON RESTRICTIVE BUSINESS PRACTICES;

(c) THE MODEL LAW OR LAWS FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES AND THE HANDBOOK ON RESTRICTIVE BUSINESS PRACTICES LEGISLATION;

(d) TECHNICAL ASSISTANCE, ADVISORY AND TRAINING PROGRAMMES ON RESTRICTIVE BUSINESS PRACTICES

(Agenda item 4)

WORK PROGRAMME ON RESTRICTIVE BUSINESS PRACTICES

(Agenda item 5)

61. The representative of Portugal gave information on bilateral cooperation between Portugal and Angola on competition and price policy. This particular action of technical assistance undertaken by Portugal was of the utmost importance, not only because it was the first time that a programme tailored to the specific needs of Angola in the area of price and competition had been carried out, but also because it showed the will of Angola's authorities to implement a free market system and adopt the corresponding rules.

62. In July 1992, an official of the Portuguese authorities for competition and price policy was in Angola for one week to promote seminars, to study the local price and supply conditions and to analyse structural needs in the area of competition. Subsequently, in September and October 1992, four officials from the Price and Competition Department of the Ministry of Finance of Angola visited Portugal for an eight-week training programme in the Portuguese General Directorate for Competition and Prices in the fields of price and RBP control policy. The main aim of the programme was to assist the competent authorities of Angola in handling local price and supply matters more effectively and in preparing the national RBP legislation.

63. The representative of Ghana stated that, as outlined in TD/B/RBP/89/Add.1, his country had subscribed to the objectives and principles of the Set, but had neither the legislation to control or regulate RBPs nor the trained personnel to administer the RBP legislation. His country had now drawn up a draft law (known as the Trade Practices Law) which would shortly be submitted to the Cabinet for promulgation. He thanked the UNCTAD secretariat and donor countries for their valuable help in drafting the legislation. The next step would include a seminar for the business community; the establishment of an Authority to detect RBPs and administer the RBP legislation and, finally, a training programme for the staff of the Authority. His country would no doubt continue to request assistance.

64. The representative of Jamaica stated that her Government had drafted a competition bill which was currently being examined by a select committee of Parliament. A number of steps had been taken to facilitate the operation of a market economy - including the removal of price controls and the reduction of

tariff barriers - and it had become necessary to ensure fair play in the market place, through the "Fair Competition Act". In so doing, Jamaica took into account the provisions of the Set of Principles and Rules for the Control of Restrictive Business Practices.

65. Jamaica had requested information on restrictive business practices legislation in other countries and sought consultations with countries that had experience in the implementation of such laws. Assistance had been obtained from the United States through USAID and from the United Kingdom and Canada. Jamaica's rapid progress to the point it had now reached resulted in no little measure from the assistance received. She hoped that the necessary technical assistance would be provided in support of her country's efforts to ensure the smooth implementation of this very important legislation.

66. The representative of Chile reviewed his country's experience in the light of the far-reaching political and economic changes that had taken place there.

67. In 1985 privatization or deregulation of the main enterprises in the public sector had begun, partly by means of the so-called "popular capitalism" procedure, whereby 30 per cent of the capital was transferred to employees while the remaining capital was offered to entrepreneurs in the private sector. In other cases the enterprises were transferred in their entirety to private owners.

68. In 1973 competition courts were first established, consisting of a "preventive commission", a "decision-making commission" and the "National

Economic Investigatory Office". These had been continuously engaged in establishing general guidelines for achieving healthy and loyal competition in the market.

69. He said it was necessary to bear in mind that privatization in itself was not a guarantee of efficiency. A competitive environment had to be created to ensure the proper regulation of sectoral development so as to safeguard consumer interests.

70. He would be making available to delegations a specialized publication that showed the indices of growth and profitability for sectors that had been privatized and the level they had achieved. He would also provide the secretariat with 12 rulings of the two Commissions which reflected the criteria used for that purpose.